

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DAVID HODGES,

Case No. 6:15-cv-521-AC

Plaintiff,

ORDER

v.

CORIZON HEALTH, INC.; ANDREW GRASLEY, MD; CHERYL CALCAGNO, FNP; and TRANG TRAN, RN,

Defendants.

ACOSTA, Magistrate Judge:

Presently before the court are defendants' motion for summary judgment, and plaintiff's motions for appointment of private investigator and a continuance to allow plaintiff to engage in discovery necessary to respond to defendants' summary judgment motion. In his motion for continuance, plaintiff references a pending motion for appointment of *pro bono* counsel and a need

to obtain an expert witness.

A review of defendants' motion for summary judgment reveals the first of four arguments asserts plaintiff's claim is barred by the applicable statute of limitations. While the argument is based on when the claim accrued, or when plaintiff knew or should have known of the alleged injury, it requires primarily a resolution of a legal, rather than factual, question. Consequently, the court finds plaintiff is capable of responding to this legal argument without the assistance of *pro bono* counsel, a private investigator, or an expert. Ruling on those requests therefore is deferred pending resolution of the first argument raised in defendants' motion for summary judgment. To the extent plaintiff needs assistance in responding to such argument, it is evident from the materials attached to plaintiff's motion for appointment of a private investigator that services from an inmate legal assistant are available to plaintiff. Such assistance should be adequate with regard to the narrow statute of limitations issue.

The court grants plaintiff's motion for continuance to the extent he seeks additional time to respond to the pending motion for summary judgment. Plaintiff shall have the requested additional 120 days to respond to defendants' motion for summary judgment based on the applicable statute of limitations. Such response is now due December 8, 2017. The court will not consider any additional requests for extension of time to respond to this argument. The remaining three arguments raised in defendants' motion for summary judgment are deferred pending resolution of the first argument. Accordingly,

IT IS ORDERED that plaintiff's motion for continuance (ECF No. 122) is GRANTED IN PART. Plaintiff's response to the statute of limitations argument raised in defendants' motion for summary judgment is due December 8, 2017. Defendants' reply is now due December 22, 2017, and

defendants' motion for summary judgment (ECF No. 65) based on the statute of limitations is set under advisement on December 29, 2017. Plaintiff's motion for appointment of a private investigator (ECF No. 119) and any other pending motions for appointment of pro bono counsel or an expert witness, as well as the remaining three arguments in defendants' motion for summary judgment, are DEFERRED.

DATED this 4th day of August, 2017.

/s/ John V. Acosta
JOHN V. ACOSTA
United States Magistrate Judge